

RECORDATION NO. 10710-A Filed 1425

DEC 07 1979 - 11 15 AM

December 7, 1979

INTERSTATE COMMERCE COMMISSION

Secretary
Interstate Commerce Commission
Washington, D.C. 20423

No. 9-351A060

Date DEC 7 1979

Fee \$ 10.00

Dear Sir:

ICC Washington, D. C.

Enclosed for recordation under the provisions of 49 U.S.C. §11303(a) and the regulations thereunder are the original and two copies each of the following documents: (i) Amended and Restated Security Agreement dated as of December 7, 1979 (which amends and restates a Security Agreement dated August 7, 1979 and recorded with the Interstate Commerce Commission on August 8, 1979, Recordation No.10709); and (ii) a Transferee Agreement dated as of December 7, 1979 assigning an interest in a Management and Maintenance Contract dated as of August 8, 1979 between Swig Investment Company as owner and Upper Merion and Plymouth Railroad Company as Manager and recorded with the Interstate Commerce Commission on August 8, 1979, Recordation No.10710, with the Consent and Agreement of the Manager attached thereto.

A general description of the railroad equipment covered by the enclosed documents is as follows:

One hundred (100) 100-ton open-top hopper cars bearing reporting marks and numbers UMP 6820 through UMP 6919, both inclusive.

The names and addresses of the parties to the enclosed documents are:

A. Amended and Restated Security Agreement

DEBTOR: Funding Systems Railcars, Inc.
1000 RIDC Plaza
Pittsburgh, Pennsylvania 15238

INTERIM LENDER: Lincoln First Bank N.A.
One Lincoln First Square
Rochester, New York 14643

SECURED PARTIES: (1) Northwestern National Life Insurance Company
P.O. Box 20
Minneapolis, Minnesota 55440
(2) Northern Life Insurance Company
c/o Northwestern National Life Insurance Company
P.O. Box 20
Minneapolis, Minnesota 55440

Countersigned
C. T. Koppeler

Rec. No. 10710-A
2/10

10709-A

(3) The North Atlantic Life Insurance
Company of America
c/o Northwestern National Life
Insurance Company
P.O. Box 20
Minneapolis, Minnesota 55440

B. Transferee Agreement

TRANSFeree The Swig Investment Company
950 Mason Street
San Francisco, California 94106

SECURED

PARTIES:

(1) Northwestern National Life
Insurance Company
P.O. Box 20
Minneapolis, Minnesota 55440

(2) Northern Life Insurance Company
c/o Northwestern National Life
Insurance Company
P.O. Box 20
Minneapolis, Minnesota 55440

(3) The North Atlantic Life Insurance
Company of America
c/o Northwestern National Life
Insurance Company
P.O. Box 20
Minneapolis, Minnesota 55440

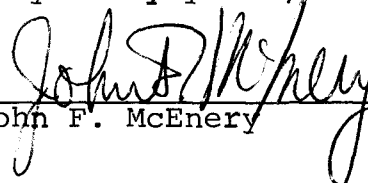
MANAGER: Upper Merion and Plymouth Railroad Company
c/o FSC Corporation
1000 RIDC Plaza
Pittsburgh, Pennsylvania 15230

The undersigned is attorney-in-fact for the Debtor and
Manager mentioned in the enclosed documents and has knowledge of
the matters set forth therein.

Please return the copies of the enclosed documents to Charles
T. Kappler, Esq., Alvord and Alvord, 200 World Center Building,
918 Sixteenth Street, N.W., Washington, D.C. 20006, or to the
bearer hereof.

Also enclosed is a remittance for the required recording
fee.

Very truly yours,


John F. McEnery

RECORDATION NO. 10710-A Filed 1425
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INTERSTATE COMMERCE COMMISSION

TRANSFeree AGREEMENT

THIS TRANSFeree AGREEMENT dated as of December 7, 1979 among SWIG INVESTMENT COMPANY (the "Transferee"), NORTHWESTERN NATIONAL LIFE INSURANCE COMPANY, NORTHERN LIFE INSURANCE COMPANY and THE NORTH ATLANTIC LIFE INSURANCE COMPANY OF AMERICA (the "Secured Parties").

RECITALS

Pursuant to a purchase agreement of August 8, 1979 entered into between the Transferee, as buyer, and Funding Systems Railcars, Inc., as seller (the "Debtor"), Transferee (i) agreed to purchase from Debtor 100 railroad hopper cars described on the annexed Schedule A (the "Equipment") and (ii) acknowledged that Transferee's interest in the Equipment would be subject and subordinate to the security interest in the Equipment and proceeds thereof granted to Lincoln First Bank N.A. (the "Interim Lender") by and pursuant to a Security Agreement dated August 7, 1979 between Debtor and the Interim Lender (the "Interim Security Agreement"), which security interest has been assigned by the Interim Lender to the Secured Parties pursuant to an Amended and Restated Security Agreement of even date among Debtor, the Interim Lender and Secured Parties (the "Security Agreement").

A portion of the unpaid principal amount of the indebtedness of Debtor secured by the Interim Security Agreement has been purchased by the Secured Parties from the Interim Lender, and Debtor has issued in substitution for the promissory note evidencing such indebtedness (the "Interim Note"), separate promissory notes to each of the Secured Parties in the aggregate principal amount of \$2,590,000. Said promissory notes and any and all promissory notes issued in exchange therefor under the Security Agreement are hereinafter sometimes referred to individually as a "Note" and collectively or the "Notes".

This Transferee Agreement is hereinafter referred to as this "Security Agreement and Assignment".

The Notes and the principal thereof and interest thereon and all additional amounts and other sums at any time due and owing from or required to be paid by the Debtor under the terms of the Notes and the Security Agreement are hereinafter called the "indebtedness hereby secured."

Transferee entered into a management and maintenance contract dated August 8, 1979 (the "Management and Maintenance Contract") between Transferee and Upper Merion and Plymouth Railroad ("UMP"), and FSC Corporation executed and delivered to the Transferee a Guaranty Agreement dated August 8, 1979 (the "Guaranty Agreement"), wherein FSC Corporation guaranteed payment

and performance by UMP under the Management and Maintenance Contract. Transferee is assigning certain right, title and interest in the Management and Maintenance Contract and Guaranty Agreement to the Secured Parties as herein provided.

NOW, THEREFORE, be it agreed:

SECTION 1. GRANT OF SECURITY AND ASSIGNMENT

1.1 Grant of Security and Assignment. The Transferee, in consideration of the premises and of the sum of Ten Dollars received by the Transferee from the Secured Parties and in order to secure the payment of the principal of and interest on the Notes according to their tenor and effect, and to secure the payment of all other indebtedness thereby secured and the performance and observance of all covenants and conditions in the Notes, and in this Security Agreement and Assignment contained, does hereby convey, warrant, mortgage, pledge, assign, and grant the Secured Parties, their successors and assigns, a security interest in, all and singular of the Transferee's right, title and interest in and to the Management and Maintenance Contract and Guaranty Agreement subject only to the exceptions, reservations and limitations contained in Section 1.4 hereof (all properties to which this security interest extends are hereinafter collectively referred to as the "Additional Collateral").

1.2 Additional Collateral. Additional Collateral also includes all right, title, interest, claims and demands of the Transferee in, to and under the Management and Maintenance Contract including any and all amendments thereto whether now existing or hereafter entered into, including all extensions of the term thereof with all rights, powers, privileges, options and other benefits of the Transferee under the Management and Maintenance Contract, including, without limitation, but subject always to the exceptions, reservations and limitations contained in Section 1.4 hereof:

(1) The immediate and continuing right to receive and collect all revenue, insurance proceeds, condemnation awards and other payments, tenders and security now or hereafter payable to or receivable by the Transferee under the Management and Maintenance Contract or pursuant thereto or with respect to the Equipment; and

(2) Upon the occurrence of an Event of Default hereunder, the right to take such action under the Management and Maintenance Contract which the Transferee could have taken had an Event of Default occurred thereunder, or an event which, with the lapse of time or giving of notice, of both, would constitute an Event of Default under the Management and Maintenance Contract, including the commencement, conduct and consummation of legal, administrative or other proceedings, as shall be permitted by the Management and Maintenance Contract or by law, and to do any and all other things whatsoever which the Transferee is or may be entitled to do under said Management and Maintenance Contract;

it being the intent and purpose hereof that subject always to the exceptions, reservations and limitations contained in Section 1.4 hereof, the assignment and transfer to the Secured Parties of said rights, powers, privileges, options and other benefits shall be effective and operative immediately and shall continue in full force and effect, and the Secured Parties and each of them shall have the right to collect and receive said revenue, insurance proceeds, condemnation awards and other payments for application in accordance with the provisions of Section 3 hereof at all times during the period from and after the date of this Security Agreement and assignment until the indebtedness hereby secured has been fully paid and discharged.

1.3 Duration of Security Interest. The Secured Parties, their successors and assigns, shall have and hold the Additional Collateral forever; provided, always, however, that if the indebtedness hereby secured shall be paid in full and Transferee and Debtor shall observe, keep and perform all the terms and conditions, covenants and agreements herein and in the Debtor Security Agreement and the Notes respectively contained, then these presents and the estate hereby granted and conveyed shall cease and this Security Agreement and Assignment shall become null and void; otherwise to remain in full force and effect. Secured Parties further acknowledge and agree that upon receipt of payment in full the Secured Parties will, at the option of the Debtor either: (i) release and discharge its lien; or (ii) assign its lien to any third party institutional lender designated by Debtor, in the Collateral.

1.4 Excepted Rights in Collateral. There are expressly excepted and reserved from the security interest and operation of this Security Agreement and Assignment the following described properties, rights, interests and privileges (hereinafter sometimes referred to as the "Excepted Rights in Collateral") and nothing herein or in any other agreement contained shall constitute an assignment of the Excepted Rights in Collateral to the Secured Parties:

(a) Any insurance proceeds payable under general public liability policies maintained by or for the benefit of Transferee; and

(b) Any rights or interests obtained by Transferee pursuant to any transfer of its interest in accordance with Section 2.5(c) hereof.

1.5 Release. Secured Parties agree that all revenue (insurance proceeds and condemnation awards excluded) under the Management and Maintenance Contract in excess of the amounts required to discharge the obligations of Debtor under clause first of Section 5.1 of the Security Agreement at the time such revenues are received by UMP shall be automatically released from the security interest of the Secured Parties, so long as no Event of Default shall have occurred and be continuing.

SECTION 2. COVENANTS AND WARRANTIES OF THE TRANSFEREE

The Transferee covenants, warrants and agrees as follows:

2.1 Transferee's Duties. The Transferee covenants and agrees well and truly to perform, abide by and to be governed and restricted by each and all of the terms, provisions, restrictions, covenants and agreements set forth in this Security Agreement and Assignment, the Management and Maintenance Contract, and in each and every supplement thereto or amendment thereof which may at any time or from time to time be executed and delivered by the parties thereto or their successors and assigns, to the same extent as though each and all of said terms, provisions, restrictions, covenants and agreements were fully set out herein.

2.2 Transferee's Covenants. The Transferee consents to the Security Agreement and covenants and agrees that the Equipment is subject and subordinate in all respects to the security interest of Secured Parties in the Equipment. The Transferee shall pay or discharge any and all claims, liens, charges or security interests on the Equipment claimed by any party from, through or under the Transferee, its successors or assigns not arising out of the transactions contemplated by the Security Agreement (but including tax liens arising out of the receipt by Transferee of income and proceeds from the Equipment and the Additional Collateral) or which if unpaid might become such a claim, lien, charge or security interest on or with respect to the Equipment and the Additional Collateral; provided, however, that Transferee shall not be required to discharge such claim, lien, charge or security interest so long as the validity thereof shall be contested in good faith and by appropriate legal or administrative proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of counsel to the Debtor or Transferee, a copy of which opinion shall have been delivered to Secured Parties, adversely affect the security interest of the Secured Parties in or to the Equipment and Additional Collateral or any portion thereof. The Transferee has full right, power and authority to execute and deliver and to carry out the terms and provisions of the agreements and related documents (the "Transfer Documents") relating to the purchase of the Equipment from Debtor and management of the Equipment. There are no proceedings pending, or to Transferee's knowledge threatened, against or affecting Transferee in any court or before any governmental authority or arbitration board or tribunal which, if adversely determined, would materially and adversely affect Transferee's right, power and authority to enter into the Transfer Documents or perform its obligations thereunder. The Equipment acquired by Transferee is free and clear of any liens or encumbrances which result from claims against Transferee other than the Permitted Liens (as defined in the Security Agreement). Transferee has not by affirmative act conveyed title to or a security interest in any such Equipment to any person or entity or subjected the Equipment to any lien or encumbrance other than the Permitted Liens.

2.3 Further Assurances. The Transferee will do, execute, acknowledge and deliver all and every further acts, deeds, conveyances, transfers and assurances necessary or proper for the perfection of the security interest being herein provided for in the Additional Collateral, whether now owned or hereafter acquired, subject to the provisions of Section 5.5 hereof. Without limiting the foregoing but in furtherance of the security interest herein granted in the revenues and other sums due and to become due under the Management and Maintenance Contract, the Transferee covenants and agrees that it will direct UMP to make all payments of revenues derived under the Management and Maintenance Contract, other than the Excepted Rights in Collateral, directly to the Secured Parties or as the Secured Parties may direct.

2.4 Recordation and Filing. The Transferee will cause this Security Agreement and Assignment and any supplements hereto, the Management and Maintenance Contract, and any supplements thereto and all financing and continuation statements and similar notices required by applicable law, at all times to be kept, recorded and filed at the sole expense of Debtor in such manner and in such places as may be required by law in order fully to preserve and protect the rights of the Secured Parties hereunder.

2.5 Negative Covenants. The Transferee will not:

(a) Declare a default or exercise the remedies of the Transferee under, or terminate or modify or accept a surrender of, or offer or agree to, any termination or modification or surrender of or waiver with respect to, the Management and Maintenance Contract; provided, however, that Transferee shall have the right to terminate the Management and Maintenance Contract upon the occurrence of an event of default thereunder if (i) Transferee shall have entered into a new Management and Maintenance Contract substantially in the form of the Management and Maintenance Contract (or other form reasonably satisfactory to Secured Parties) with a manager which has capacity and capability substantially equivalent to that of UMP to load railroad hopper cars on its tracks, and is reasonably satisfactory to Secured Parties and (ii) Transferee shall have assigned and granted a security interest therein to Secured Parties on the same terms and conditions herein set forth;

(b) Receive or collect or permit the receipt or collection of any payment under the Management and Maintenance Contract, prior to the date for payment thereof provided for by the Management and Maintenance Contract or assign, transfer or hypothecate (other than to the Secured Parties) any payment then due or to accrue in the future under the Management and Maintenance Contract, in respect of the Equipment; or

(c) Sell, mortgage, transfer, assign or hypothecate its interest in the Equipment or the Additional Collateral or any part thereof or in any amount to be received by it from the use or disposition of the Equipment without the prior written consent of the Secured Party, which consent shall not be unreasonably withheld, it being understood that the financial condition of the proposed transferee may be considered in determining whether to grant such consent.

2.6 Power of Attorney in Respect of Management and Maintenance Contract. Transferee does hereby irrevocably constitute and appoint the Secured Parties, and each of them its true and lawful attorney with full power of substitution for it and in its name, place and stead, to ask, demand, collect, receive, receipt and sue for any and all income and other sums which are assigned under Section 1.1, 1.2 and 1.3 and to endorse the name of the Transferee on all commercial paper given in payment or in part payment thereof, and in its discretion to file any claim or take any other action or proceedings, either in its own name or in the name of the Transferee or otherwise, which the Secured Parties, or any of them may deem necessary or otherwise appropriate to protect and preserve the right, title and interest of the Secured Parties in and to such revenues and other sums and the security intended to be afforded hereby.

SECTION 3. APPLICATION OF REVENUES AND CERTAIN OTHER MONEYS RECEIVED BY THE SECURED PARTIES

3.1 Application of Revenues; Certain Prepayments. Transferee and Secured Parties hereby expressly consent and agree that all amounts from time to time received by Secured Parties constituting payment of revenues under the Management and Maintenance Contract or casualty insurance proceeds in respect of the Equipment shall be applied by Secured Parties in the manner and priority set forth in Section 5 of the Security Agreement.

SECTION 4. DEFAULTS AND OTHER PROVISIONS

4.1 Events of Default. The term Event of Default shall mean one or more of the following:

(a) Default in payment of an installment of the principal of, or interest on, the Note when and as the same shall become due and payable, whether at the due date thereof or at the date fixed for any prepayment or by acceleration or otherwise, and any such default shall continue unremedied for ten days after written notice to Transferee that the same is due and payable; or

(b) An Event of Default, as defined and set forth in the Management and Maintenance Contract shall occur and be continuing unless the Management Contract shall have been terminated under the conditions permitted and in compliance with Section 2.5(a) of the Transferee Agreement.

(c) Default on the part of the Debtor or Transferee in the due observance or performance of any covenant or agreement to be observed or performed by the Transferee under this Security Agreement and Assignment or by the Debtor under the Security Agreement, and such default shall continue unremedied for 30 days after written notice from the Secured Parties, or any of them to the Debtor and the Transferee specifying the default and demanding the same to be remedied; or

(d) Any representation or warranty on the part of the Debtor, UMP or Transferee made herein, in the Security Agree-

ment, or in the Management and Maintenance Contract or in any report certificate, financial or other statement furnished in connection with this Security Agreement and Assignment, the Security Agreement, the Management and Maintenance Contract shall prove to be false or misleading in any material respect materially adverse to the Secured Parties when made and, if the same is susceptible of being cured, the same is not cured within 30 calendar days.

(e) Any claim, lien or charge prohibited by Section 2.2 hereof (other than Permitted Liens) shall be asserted against or levied or imposed upon the Equipment, and such claim, lien or charge shall not be discharged or removed within thirty calendar days.

(f) Any proceeding commenced by or against the Debtor for any relief which includes or might result in any modification of the obligations of the Debtor under the Security Agreement under any bankruptcy or insolvency law or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions, or if commenced against Debtor such proceedings shall not have been dismissed within 90 days.

4.2 Secured Parties' Rights. The Transferee agrees that when any Event of Default has occurred and is continuing, the Secured Parties, and each of them shall have the rights, options, duties and remedies of a secured party, and the Transferee shall have the rights and duties of a debtor, under the Uniform Commercial Code of the State of New York (regardless of whether such code or a law similar thereto has been enacted in a jurisdiction wherein the rights or remedies are asserted) and the Secured Parties shall have the following rights and remedies:

(a) The Secured Parties holding at least 66-2/3% of the aggregate principal amount of the Notes then outstanding may, by notice in writing to the Transferee declare the entire unpaid balance of the Notes to be immediately due and payable; and thereupon all such unpaid balance, together with all accrued interest thereon, shall be and become immediately due and payable. Notwithstanding anything to the contrary contained herein, the Debtor and the Transferee (the "Redeeming Party") shall have the right to redeem all but not less than all of the Equipment owned by said Redeeming Party by paying to Secured Parties, within ten (10) days of the receipt by Debtor and Transferee of the notice from the Secured Parties, an amount equal to the Redemption Value (as hereinafter defined) for the Equipment to be redeemed. For the purposes of this Section 4.2(a), the Redemption Value shall be an amount equal to the then outstanding amount of the indebtedness hereby secured.

(b) The Secured Parties, and each of them may proceed to exercise all rights, privileges and remedies of the Transferee under the Management and Maintenance Contract and may exercise all such rights and remedies either in the name of the Secured Party or Secured Parties taking such action or in the name of the Transferee for the use and benefit of the Secured Parties.

4.3 Application of Sales Proceeds. The proceeds and/or avails of any sale of the Equipment, or any part thereof, and the proceeds and the avails of any remedies hereunder, including proceeds of the Management and Maintenance Contract, shall be paid to and applied as follows:

(a) First, to the payment of costs and expenses of foreclosure or suit, if any, and of such sale, and of all proper expenses, liability and advances, including legal expenses and attorneys' fees, incurred or made hereunder by the Secured Parties, and of all taxes, assessments or liens superior to the lien of these presents, except any taxes, assessments or other superior lien subject to which said sale may have been made;

(b) Second, to the payment of the Notes in the amount then owing or unpaid on the Notes for principal and interest; and in case such proceeds shall be insufficient to pay in full the whole amount so due, owing or unpaid upon the Notes, then the first to unpaid interest thereon, and second, to unpaid principal thereof.

(c) Third, to the payment of the surplus, if any, to the Transferee or to whomsoever may be lawfully entitled to receive the same.

4.4 Cumulative Remedies. No delay or omission of the Secured Parties to exercise any right or power arising from any default on the part of the Debtor or Transferee shall exhaust or impair any such right or power or prevent its exercise during the continuance of such default. No waiver by the Secured Parties, of any such default, whether such waiver be full or partial, shall extend to or be taken to affect any subsequent default, or to impair the rights resulting therefrom except as may be otherwise provided herein. The Secured Parties may exercise any one or more or all of the remedies hereunder and no remedy is intended to be exclusive of any other remedy but each and every remedy shall be cumulative and in addition to any and every other remedy given hereunder or otherwise existing now or hereafter at law or in equity; nor shall the giving, taking or enforcement of any other or additional security, collateral or guaranty for the payment of the indebtedness secured under this Security Agreement and Assignment operate to prejudice, waive or affect the security of this Security Agreement and Assignment or any rights, powers or remedies hereunder, nor shall the Secured Parties be required to first look to, enforce or exhaust such other or additional security, collateral or guaranties.

SECTION 5. MISCELLANEOUS

5.1 Successors and Assigns. Whenever any of the parties hereto is referred to such reference shall be deemed to include the successors and assigns of such party; and all the covenants, promises and agreements in this Security Agreement and Assignment contained by or on behalf of the Transferee or by or

on behalf of the Secured Parties, shall bind and inure to the benefit of the respective successors and assigns of such parties whether so expressed or not. Following any transfer permitted hereunder all references to Transferee shall be deemed to refer solely to such permitted transferee.

5.2 Partial Invalidity. The unenforceability or invalidity of any provision or provisions of this Security Agreement and Assignment shall not render any other provision or provisions herein contained unenforceable or invalid.

5.3 Communications. All communications provided for herein shall be in writing and shall be deemed to have been given (unless otherwise required by the specific provisions herein in respect of any matter) when deposited in the United States certified mails, first class, postage prepaid, addressed as follows:

To the Transferee: Swig Investment Company
950 Mason Street
San Francisco, CA 94106

With a copy to: Bergreen & Bergreen
660 Madison Avenue
New York, NY 10021

To the Secured Parties: Northwestern National Life Insurance Company
P. O. Box 20
Minneapolis, Minnesota 55440

Northern Life Insurance Company
c/o Northwestern National Life Insurance Company
P. O. Box 20
Minneapolis, Minnesota 55440

The North Atlantic Life Insurance Company
c/o Northwestern National Life Insurance Company
P. O. Box 20
Minneapolis, Minnesota 55440

or to the Transferee or the Secured Parties at such other address as the Transferee or the Secured Parties may designate by notice duly given in accordance with this Section to the other party.

5.4 Release. The Secured Parties shall release this Security Agreement and Assignment and the security interest granted hereby by proper instrument or instruments upon presentation of satisfactory evidence that all indebtedness secured hereby has been fully paid or discharged.

5.5 Non-Recourse. Notwithstanding anything to the contrary contained in this Security Agreement and Assignment or

any document collateral thereto, it is expressly understood and agreed that Transferee's liabilities and obligations shall be non-recourse and enforceable exclusively against the Equipment and the Additional Collateral and Transferee does not assume any of the provisions of the Security Agreement or the Notes and Transferee shall not be personally liable for and Secured Parties shall not seek any deficiency or other money judgment against Transferee in any event.

5.6 Governing Law. This Security Agreement and Assignment and the Note shall be construed in accordance with and governed by the laws of the State of New York; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. Section 11303 and such additional rights arising out of the filing, recording or deposit hereof, if any, and of any assignment hereof as shall be conferred by the laws of the secured jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited.

5.7 Counterparts. This Security Agreement and Assignment may be executed, acknowledged and delivered in any number of counterparts, each of such counterparts constituting an original but all together only one Security Agreement and Assignment.

5.8 Headings. Any headings or captions preceding the text of the several sections hereof are intended solely for convenience of reference and shall not constitute a part of this Security Agreement and Assignment nor shall they affect its meaning, construction or effect.

SECTION 6. PRIORITY OF SECURED PARTIES.

By accepting Notes secured by this Security Agreement and Assignment, Secured Parties, and each of them, agree (i) that they shall rank pari passu with respect to the security interest in the Additional Collateral, notwithstanding the order of attachment or perfection of the security interest as to each Secured Party, and (ii) that upon any foreclosure, sale or other disposition of or realization in any manner upon all or any part of the Additional Collateral, after deducting all expenses of enforcement, including without limitation attorney's fees, the Secured Parties shall be entitled to share in the resulting income pertaining to and the proceeds of such foreclosure, sale, other disposition of or other realization upon the Additional Collateral pro rata in that proportion which the outstanding principal amount of and accrued and unpaid interest on the indebtedness hereby secured to the respective Secured Parties bears to the aggregate principal amount of the indebtedness hereby secured to the Secured Parties, taken as a whole.

IN WITNESS WHEREOF, the Transferee and the Secured Party intending to be legally bound hereby, have executed this Security Agreement as of the day and year first above written.

SWIG INVESTMENT COMPANY

By Melvin L. Swig
Manager

NORTHWESTERN NATIONAL LIFE
INSURANCE COMPANY

Karolyn Anderson

By S. W. W. W. W. W.
Title: Vice Pres.

NORTHERN LIFE INSURANCE COMPANY

Karolyn Anderson

By S. W. W. W. W.
Title: Asst. Treas.

THE NORTH ATLANTIC LIFE INSURANCE
COMPANY OF AMERICA

Karolyn Anderson

By S. W. W. W. W.
Title: ASST. TREAS.

G/DD2

STATE OF NEW YORK
COUNTY OF NEW YORK

)
) SS:
)

On this 5th day of December, 1979, before me, personally appeared Melvin M. Suig and they are Vice Managers of The Suig Investment Company to me personally known, who being by me duly sworn, said that they ~~are~~ are of the Suig Investment Company a general partnership organized under the laws of the State of California, that the foregoing instrument was signed and sealed on behalf of said partnership by authority of its general partners and ~~they~~ acknowledged that the execution of the foregoing instrument was the free act and deed of said partnership.

Richard D. Platt
Notary Public

SEAL OF NOTARY PUBLIC
Notary Public, State of New York
No. 31-301, 302
Qualified in New York County
Commission Expires March 30, 1981


(SEAL)

SEAL OF NOTARY PUBLIC
Notary Public, State of New York
No. 31-301, 302
Qualified in New York County
Commission Expires March 30, 1981

STATE OF MINNESOTA
COUNTY OF HENNEPIN

)
) SS:
)

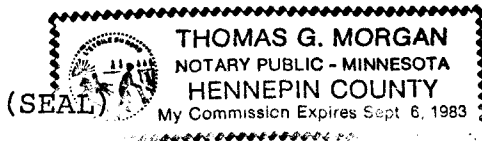
On this 6th day of December, 1979, before me, personally appeared Steven W. Wishart to me personally known, by me duly sworn, said that he is a Vice President for Northwestern National Life Insurance Company ~~that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation~~ that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

 **THOMAS G. MORGAN**
NOTARY PUBLIC - MINNESOTA
HENNEPIN COUNTY
(SEAL) My Commission Expires Sept. 6, 1983

Thomas G. Morgan
Notary Public

STATE OF MINNESOTA)
) SS:
COUNTY OF HENNEPIN)

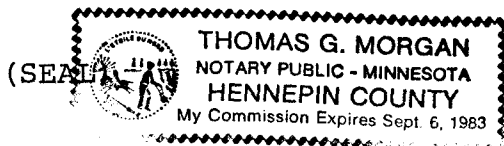
On this 6th day of December, 1979, before me, personally appeared Steven W. Wishart to me personally known, by me duly sworn, said that he is an Assistant Treasurer for Northern Life Insurance Company, ~~that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation,~~ that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation. *Th*



Thomas G. Morgan
Notary Public

STATE OF MINNESOTA)
) SS:
COUNTY OF HENNEPIN)

On this 6th day of December, 1979, before me, personally appeared Steven W. Wishart to me personally known, by me duly sworn, said that he is an Assistant Treasurer for The North Atlantic Life Insurance Company of America, ~~that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation,~~ that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation. *Th*



Thomas G. Morgan
Notary Public

SCHEDULE A

TO TRANSFEREE AGREEMENT

The Equipment consists of one hundred (100) 100 ton Chessie System Design, open top hopper cars bearing identifying numbers as follows:

UMP 6820 through UMP 6919, inclusive, manufactured by The Chessie Corporation under Agreement made with Funding Systems Railcars, Inc. dated June 12, 1979.

UPPER MERION AND PLYMOUTH RAILROAD COMPANY

Consent and Agreement

Funding Systems Railcars, Inc.
Suite 404
1000 RIDC Plaza
Pittsburgh, PA 15238

Northwestern National Life
Insurance Company
P. O. Box 20
Minneapolis, Minnesota 55440

Northern Life Insurance Company
c/o Northwestern National Life
Insurance Company
P. O. Box 20
Minneapolis, Minnesota 55440

The North Atlantic Life Insurance
Company of America
c/o Northwestern National Life
Insurance Company
P. O. Box 20
Minneapolis, Minnesota 55440

December 7, 1979

Gentlemen:

Reference is made to the Amended and Restated Security Agreement dated the date hereof ("Security Agreement") among Funding Systems Railcars, Inc. ("Debtor"), Lincoln First Bank N.A. ("Interim Lender") and Northwestern National Life Insurance Company, Northern Life Insurance Company and The North Atlantic Life Insurance Company of America ("Secured Parties"). Further reference is made to the Transferee Agreement dated the date hereof (the "Transferee Agreement") among Swig Investment Company ("Swig") and the Secured Parties. The capitalized terms used herein shall have the respective meanings set forth in the Security Agreement unless the context otherwise requires.

As an inducement to and as part of the consideration for the permanent financing to be provided by the Secured Parties to the Debtor for the Equipment subject to the Security Agreement, Upper Merion and Plymouth Railroad Company ("UMP"), a wholly-owned subsidiary of the Debtor, represents, warrants and agrees as follows:

1. Corporate Organization and Authority. UMP is a corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Pennsylvania; has all requisite power and authority and all necessary licenses and permits to own and operate its respective properties and to carry on its business as now conducted; is a common carrier by rail under the Interstate Commerce Act and will remain so as long as the Management and Maintenance Contract dated as of August 8, 1979, between UMP and Swig ("Management Contract") is in effect; and is duly licensed or qualified and is in good standing as a foreign corporation in each jurisdiction in which such qualification is necessary to carry out the terms of the Management Contract.

2. Pending Litigation. There are no proceedings pending or threatened against or affecting UMP in any court or before any governmental authority or arbitration board or other tribunal which if adversely determined would materially and adversely affect UMP's ability to perform its obligations under the Management Contract. UMP is not in default with respect to any order of any court or governmental authority or arbitration board or other tribunal.

3. Corporate Authority; No Conflict with Certificate of Incorporation, Etc. The execution and delivery by UMP of the Management Contract and compliance by UMP with all of the provisions thereof and hereof:

- (i) Are within the corporate powers of UMP;
- (ii) Will not violate any provisions of any law or any order of any court or governmental authority or agency and will not conflict with or result in any breach of any of the terms, conditions or provisions of, or constitute a default under the Articles of Incorporation or By-Laws of UMP or any indenture, mortgage, conditional sale, loan or credit agreement or other instrument to which UMP is a party or by which it may be bound, or result in the imposition of any liens or encumbrances on any property of UMP.

4. No Existing Defaults Under the Management Contract. No event of Default, as defined in the Management Contract, has occurred and is continuing and no event has occurred and is continuing which with the lapse of time or the giving of notice, or both, would constitute such an Event of Default.

5. Governmental Approvals. No approval, consent or withholding of objection on the part of any regulatory body, Federal, state or local, is necessary in connection with the execution and delivery by UMP of the Management Contract or compliance by UMP with any of the provisions thereof.

6. Title. No mortgage, deed of trust or other lien of any nature whatsoever which now covers or affects any property or interest therein of UMP, now attaches or hereafter will attach to any item of Equipment or in any manner affects or will affect adversely the right, title and interest of the Debtor or security interest of the Secured Parties therein.

7. Insurance. The Equipment is covered by the insurance required by the Management Contract and the Security Agreement and all premiums due on or prior to the date hereof in respect of such insurance have been paid in full.

8. ERISA. UMP is not entering into the Management Contract or any other transaction contemplated thereby, directly or indirectly in connection with any arrangement or understanding in any way involving any employee benefit plan with respect to which it, or, insofar as is known to it, the Secured Parties, or the Debtor is a party in interest all within the meaning of the Employee Retirement Income Security Act of 1974, as amended (ERISA).

9. Amendments to Management Contract. Until such time as the Notes and all other obligations of the Debtor to the Secured Parties have been paid and discharged, UMP will not enter into or permit any amendment, modification or termination of the Management Contract or assign or transfer its interest thereunder to any party without the prior written consent of the Secured Parties.

10. Rights of Secured Parties. UMP acknowledges receipt of a copy of the Security Agreement, the Transferee Agreement and the Notes and consents to the terms and provisions of the Security Agreement and the Transferee Agreement and further acknowledges that notwithstanding any provision of the Management Contract to the contrary, (i) its rights under the Management Contract are subject and subordinate to the Security interest of the Secured Parties under the Security Agreement; (ii) upon the occurrence of an Event of Default, as defined in the Security Agreement, the Secured Parties shall have all the rights described in Section 6 of the Security Agreement and may exercise any of the same without any liability to UMP, and (iii) upon the occurrence of an Event of Default as defined in the Transferee Agreement, the Secured Parties shall have the rights described in Section 4 of the Transferee Agreement and may exercise any of the same without liability to UMP. UMP agrees that all Revenues under the Management Contract are payable to the Secured Parties for application as provided in Section 5.1 of the Security Agreement; provided, however, that until notified to the contrary by the Secured Parties, at the address specified in the Management Contract for notice to UMP, UMP shall not be required to make any payments in excess of the amounts necessary for application pursuant to clause first of Section 5.1 of the Security Agreement. Secured Parties agree not to send such notice to UMP unless and until an Event of Default has occurred and is continuing under the Security Agreement.

Payments to Secured Parties shall be by bank wire transfer of Federal or other immediately available funds, in the case of Northwestern National Life Insurance Company to: First National Bank of Minneapolis, Main Office, Account No. 4001-446, Minneapolis, Minnesota 55480; in the case of Northern Life Insurance Company to: Rainier National Bank, Rainier Square, Seattle, Washington 98101, for credit to Northern Life Insurance Company, Account No. 120-121-0715; and in the case of The North Atlantic Life Insurance Company of America to: Bank of New York, 110 Washington Street, New York, New York 10005, Attention: Custodian Account 931400, Ms. Daisy Sawyer; in each case with sufficient information to identify the source and application of such funds, or in such other manner or to such other address in the United States as they or any of them may designate in writing to the Debtor.

11. UMP will forward to Secured Parties, by first class mail postage prepaid, copies of all reports and notices required to be delivered by UMP to Swig under the Management Contract, including without limitation the annual report required to be delivered under Section 2.4 thereof, notice of any change in the Maintenance Fee required to be delivered under Section 8.2 thereof, status reports required to be delivered under Section 13.1 thereof and reports of foreign usage required to be delivered under Section 21 thereof.

12. Default. UMP shall not be in default in the performance of its obligations under this Consent and Agreement until the receipt of written notice by UMP and Swig specifying the occurrence of such default and such default shall continue unremedied for a period of ten days after receipt of such notice. If such default is not remedied, Swig and Secured Parties shall have the right to deem such default hereunder to be an Event of Default by UMP under the Management Contract.

13. Amendment or Modification. This Consent and Agreement shall not be amended or modified or terminated without the prior written consent of Swig.

Karolyn Anderson

Agreed to this 7th day of
December, 1979.

UPPER MERION AND PLYMOUTH RAILROAD
COMPANY

By John D. McHenry
Attorney-in-Fact

Karolyn Anderson

FUNDING SYSTEMS RAILCARS, INC.

By John D. McHenry
Title: Attorney-in-Fact

Karolyn Anderson

NORTHWESTERN NATIONAL LIFE INSURANCE
COMPANY

By S. W. Wishart
Title: Vice President

Karolyn Anderson

NORTHERN LIFE INSURANCE COMPANY

By S. W. Wishart
Assistant Treasurer

Karolyn Anderson

THE NORTH ATLANTIC LIFE INSURANCE
COMPANY OF AMERICA

By S. W. Wishart
Assistant Treasurer

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